

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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VISTA FOOD EXCHANGE, INC.,

Plaintiff,

-against-

SIMON LAW, et al,

Defendant.

21-cv-04689 (ALC)

ORDER

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ANDREW L. CARTER, JR., District Judge:

On April 3, 2023 the Clerk of this Court entered judgment in favor of Vista Food Exchange, Inc. against Lawson Foods, LLC in *Vista Food Exchange, Inc. v. Lawson Foods*, 1:17-cv-07454, in the amount of \$3,133,627.31. ECF No. 263.

On April 17, 2023, Plaintiff moved under Rule 59(e) to alter or amend the Clerk’s judgment. ECF No. 32, 264. Plaintiff seeks for an amended judgment to be entered against Lawson Foods LLC, Simon Law and Fortress Foods, jointly and severally. *Id.* Defendants filed their opposition, ECF No. 266, and Plaintiff filed its reply, ECF No. 267.

A motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment. Fed. R. Civ. P. 59(e). Plaintiff’s motion is therefore timely. The Court evaluates a motion to amend a judgment under Federal Rule of Civil Procedure 59(e) under the same standard as a motion for reconsideration under Local Rule 6.3. *Magee v. Walt Disney Co.*, No. 19-CV-10274 (AJN), 2021 WL 4805463, at *1 (S.D.N.Y. Oct. 13, 2021). “A court may grant a motion to alter or amend a judgment where (1) there is an intervening change in the controlling

law; (2) new evidence previously not available comes to light; or (3) it becomes necessary to remedy a clear error of law or to prevent manifest injustice.” *Peterson v. Syracuse Police Dept.*, 467 F. App’x 31, 34 (2d Cir. 2012). “Reconsideration of a court’s previous order is an extraordinary remedy to be employed sparingly in the interests of finality and conservation of scarce judicial resources.” *Montanile v. Nat’l Broad. Co.*, 216 F.Supp.2d 341, 342 (S.D.N.Y. 2002) (citation and quotation marks omitted).

On March 14, 2022, Magistrate Judge Sarah Netburn recommended that the Court find Lawson, Law, and Fortress Foods jointly and severally liable for \$2,258,537. ECF No. 253 at 28. On March 31, 2023, the Court adopted Judge Netburn’s report and recommendation, ECF No. 261, and subsequently issued an amended order, ECF No. 262. In its amended order, the Court found Lawson Foods LLC liable for \$2,258,537. *Id.* at 7. The Clerk of the Court entered the judgment on April 3, 2023. ECF No. 263.

Plaintiff has moved to alter or amend the Clerk’s judgment on the basis that judgment is only entered against Lawson Foods LLC, rather than Lawson Foods LLC, Simon Law and Fortress Foods, jointly and severally, as Judge Netburn recommended. ECF No. 253 at 28. The record shows the Court intended to adopt Judge Netburn’s recommendation in full, yet omitted Judge Netburn’s language holding Lawson Foods LLC, Simon Law and Fortress Foods, jointly and severally liable. ECF No. 262. As such, the Court erred in omitting Simon Law and Fortress Foods from its judgment.

In addition, Plaintiff seeks to amend the judgment to enforce the Court’s separate finding of contempt in November 2019 that Lawson Foods LLC, Simon Law and Fortress Foods be jointly and severally liable to pay Vista \$392,376, representing \$314,576 in attorneys’ fees and \$77,800 in daily contempt fines that had accrued. ECF No. 201 at 17; ECF No. 253 at 2, 23, 26.

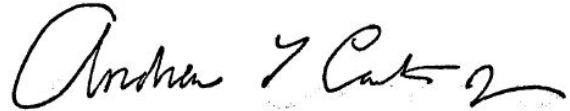
To date, Defendants have not yet fully complied with this order. The Court may alter or amend a judgment to correct an error or prevent an unfair result. In the interest of justice, the judgment must be amended to direct Defendants to pay the contempt award in full within 30 days, or possibly face further civil contempt proceedings.

CONCLUSION

For the reasons stated above, Plaintiff's motion, ECF No. 32, is **GRANTED**. As such, Plaintiff's motion to expedite, ECF No. 34, is dismissed as moot. The Clerk of the Court is respectfully directed to terminate the open motions at ECF No. 32 and 34.

SO ORDERED.

Dated: October 23, 2023
New York, New York

A handwritten signature in black ink, appearing to read "Andrew L. Carter, Jr.", written over a horizontal line.

ANDREW L. CARTER, JR.
United States District Judge